

Message Text

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PAGE 01 BUENOS 00753 01 OF 02 311816Z

ACTION ARA-14

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TO SECSTATE WASHDC 4355

INFO AMEMBASSY SANTIAGO

AMEMBASSY MONTEVIDEO

AMEMBASSY ASUNCION

AMEMBASSY BRASILIA

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UNCLAS SECTION 1 OF 2 BUENOS AIRES 0753

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SUBJECT: STATEMENT ON CLIMATE FOR FOREIGN INVESTMENT

REFERENCE: STATE 244738

1. THE FOREIGN INVESTMENT CLIMATE IN ARGENTINA IMPROVED CONSIDERABLY AFTER THE PRESENT GOVERNMENT, UNDER THE LEADERSHIP OF PRESIDENT JORGE RAFAEL VIDELA, ASSUMED POWER IN MARCH 1976. IN ITS PROGRAM AND PUBLIC PRONOUNCEMENTS BY GOVERNMENT OFFICIALS, THE GOVERNMENT HAS MADE IT CLEAR THAT IT WANTS TO ATTRACT FOREIGN INVESTMENT TO ARGENTINA "AS A COMPLEMENT TO NATIONAL INVESTMENT AND FOREIGN FINANCING TO REDUCE THE SOCIAL COST OF THE PROCESS OF CAPITAL FORMATION OF THE COUNTRY AND TO ACCELERATE ITS RATE OF GROWTH." THE VIDELA GOVERNMENT HAS GREATLY LIBERALIZED THE LEGISLATIVE FRAMEWORK FOR FOREIGN INVESTMENT IN ARGENTINA AND SETTLED MOST INVESTMENT DISPUTES IT INHERITED FROM THE PREVIOUS PERONIST REGIME. IN ADDITION, THE GOVERNMENT'S FREE MARKET ORIENTATION.

UNCLASSIFIED

PAGE 02 BUENOS 00753 01 OF 02 311816Z

NTATION AND EFFORTS TO REDUCE THE PUBLIC SECTOR'S ROLE IN THE ECONOMY HAS CREATED A FAVORABLE ECONOMIC CLIMATE FOR BOTH ARGENTINE AND FOREIGN PRIVATE INVESTORS.

2. ARGENTINA'S FOREIGN INVESTMENT LAW (21382) OF AUG 13, 1976 AND REGULATING DECREE 283/77 OF FEB 5, 1977, AMONG THE MOST LIBERAL FOREIGN INVESTMENT LEGISLATION IN LATIN AMERICA,

DO NOT EXCLUDE FOREIGN INVESTMENTS FROM ANY SECTOR. FOREIGN INVESTMENTS, HOWEVER, REQUIRE DIFFERING DEGREES OF GOVERNMENT APPROVAL DEPENDING UPON THEIR SENSITIVITY:

A) PRIOR APPROVAL FROM THE EXECUTIVE POWER (I.E. PRESIDENTIAL DECREES) IS REQUIRED FOR INVESTMENTS IN THE FOLLOWING AREAS OR FORMS: (1) NATIONAL DEFENSE AND SECURITY (WHICH SPECIFICALLY INCLUDES INVESTMENTS FOR SHIP AND AIRCRAFT MANUFACTURE, AEROSPACE INVESTIGATION AND DEVELOPMENT, AND ATOMIC ENERGY); PUBLIC SANITATION, POSTAL, ELECTRICITY, GAS, TRANSPORTATION AND TELECOMMUNICATION SERVICES; RADIO OR TV STATIONS, NEWSPAPERS, MAGAZINES OR PUBLISHING ENTERPRISES; ENERGY; EDUCATION; BANKS, INSURANCE COMPANIES AND FINANCIAL INSTITUTIONS; AND STEEL, PETROCHEMICALS, MINING, AND ALUMINUM. (2) WHEN THE PURCHASE OF LOCALLY OWNED SHARES OF A LOCAL COMPANY OR THE ADDITION OF CAPITAL WOULD CONVERT A LOCAL FIRM INTO A LOCAL COMPANY OF FOREIGN CAPITAL; AND (3) INVESTMENTS IN THE FORM OF SECOND-HAND EQUIPMENT; FOR WHICH SPECIAL PROMOTIONAL BENEFITS ARE SOUGHT; EXCEEDING \$5 MILLION; OR WHEN MADE BY A FOREIGN STATE OR A LEGAL PUBLIC ENTITY.

B) NO PRIOR APPROVAL IS REQUIRED FOR FOREIGN INVESTMENT IN THE FORM OF REINVESTMENT OF PROFITS OR NEW INVESTMENT NOT EXCEEDING 10 PERCENT OF THE FOREIGN CAPITAL REGISTERED BY THE RECEIVING CONCERN, PROVIDED THAT IT DOES NOT CONVERT A LOCAL FIRM OF NATIONAL CAPITAL INTO ONE OF FOREIGN CAPITAL.
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 BUENOS 00753 01 OF 02 311816Z

C) ALL OTHER TYPES OF FOREIGN INVESTMENTS REQUIRE THE APPROVAL OF THE IMPLEMENTING AUTHORITY (I.E. UNDER SECRETARIAT FOR FOREIGN INVESTMENT), WHICH MUST REACH A DECISION WITHIN 120 DAYS.

3. FOREIGN INVESTMENTS REQUIRING GOVERNMENT APPROVAL MUST SATISFY THE EXECUTIVE POWER OR IMPLEMENTING AUTHORITY THAT THEY WILL CONTRIBUTE POSITIVELY TO ARGENTINA'S ECONOMIC DEVELOPMENT. IN MAKING THIS ASSESSMENT, SOME OF THE FACTORS WHICH MAY BE TAKEN INTO ACCOUNT BY THE GOVERNMENT AUTHORITIES INCLUDE THE FOLLOWING: THE EFFECT ON BALANCE OF PAYMENTS, PARTICULARLY THROUGH INCREASED EXPORTS OR DECREASED IMPORTS; INCORPORATION OF NEW TECHNOLOGIES AND NATIONAL PARTICIPATION IN THEIR DEVELOPMENT; IMPACT ON REGIONAL ECONOMIC GROWTH AND ABSORPTION OF LABOR; ASSOCIATION WITH ARGENTINE INVESTORS; CONTRIBUTION TO BETTER EMPLOYMENT OF THE COUNTRY'S HUMAN, NATURAL OR MATERIAL SOURCES; AND IMPROVEMENT OF THE STANDARD OF LIVING OF THE POPULATION.

4. FOREIGN INVESTORS ARE PERMITTED TO TRANSFER PROFITS ABROAD AND REPATRIATE CAPITAL EXCEPT WHEN THE EXECUTIVE POWER PLACES LIMITATIONS OF A GENERAL NATURE - E.G. SUSPENSION OF REMITT-

ANCES FOR BALANCE OF PAYMENTS REASONS. FOREIGN INVESTORS MAY REPATRIATE CAPITAL AFTER THE THIRD YEAR, UNLESS THEY HAD PREVIOUSLY COMMITTED THEIR INVESTMENT FOR A LONGER PERIOD. A SPECIAL TAX (VARYING FROM 15-25PERCENT) IS LEVIED ON PROFITS REMITTED EXCEEDING 12 PERCENT ANNUALLY OF THE FOREIGN INVESTMENT REGISTERED AT THE CENTRAL BANK. US COMPANIES IN ARGENTINA REPORT THAT THEIR REQUESTS FOR REMITTANCES ARE BEING APPROVED EXPEDITIOUSLY.

5. THE GOVERNMENT ALSO PROMULGATED A NEW TRANSFER OF TECHNOLOGY LAW (20,794) ON AUG 12, 1977 (IMPLEMENTING REGULATIONS STILL HAVE NOT BEEN ISSUED) REPLACING PERONIST LEGISLATION WHICH WAS SO RESTRICTIVE THAT IT GREATLY IMPEDED THE FLOW OF TECHNOLOGY TO ARGENTINA. THE NEW LAW MAINTAINS MANY RESTRICTIONS ON THE UNCLASSIFIED

UNCLASSIFIED

PAGE 04 BUENOS 00753 01 OF 02 311816Z

LICENSING OF TRADEMARKS AND TECHNOLOGY BUT ON THE WHOLE IS MORE LIBERAL. FOREIGN LICENSORS WILL BENEFIT FROM: THE ELIMINATION OF THE PROHIBITION OF PAYMENT FOR TRADEMARKS; THE ACCEPTANCE OF TECHNOLOGY CONTRACTS BETWEEN RELATED FIRMS SO LONG AS THEY ARE ON AN ARMS LENGTH BASIS; AND THE PERMISSIBILITY OF CONTRACTS RESTRICTING EXPORTS TO MARKETS IN WHICH THE SUPPLIER OF TECHNOLOGY EITHER ALREADY PRODUCES OR HAS OTHER LICENSEES. ON THE OTHER HAND, THE LAW CONTAINS STRICT ROYALTY LIMITATIONS, PARTICULARLY ON TECHNOLOGY FOR THE AUTOMOTIVE INDUSTRY.

6. THE GOVERNMENT ALSO ISSUED ON JUL 27, 1977 A NEW INDUSTRIAL PROMOTION LAW (21,608) WHICH PROVIDES INCENTIVES FOR INVESTMENTS IN CERTAIN INDUSTRIES AND THE LESS URBANIZED AND DEVELOPED REGIONS OF THE COUNTRY. MAJORITY FOREIGN-OWNED FIRMS DOMICILED IN ARGENTINA ARE ELIGIBLE FOR THESE BENEFITS ON A SELECTIVE BASIS. THE REGULATIONS FOR THE INDUSTRIAL PROMOTION LAW WILL BE PUBLISHED ON A SECTORAL AND REGIONAL BASIS (TO DATE, THE ONLY ONE ISSUED COVERS THE PETROCHEMICAL INDUSTRY). IT IS STILL TOO EARLY TO JUDGE HOW MUCH FOREIGN INVESTORS WILL BE PERMITTED TO BENEFIT FROM THE INCENTIVES UNDER THE LAW.

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PAGE 01 BUENOS 00753 02 OF 02 311817Z
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UNCLAS SECTION 2 OF 2 BUENOS AIRES 0753

7. ACCORDING TO PRELIMINARY ESTIMATES RELEEAED BY THE ARGE-
NTINE UNDER SECRETARY OF FOREIGN INVESTMENT, FOREIGN INVEST-
MENT IN ARGENTINA INCREASED BY ABOUT \$250 MILLION IN 1977,
WITH THE MAJORITY BEING IN THE FORM OF REINVESTMENT OF EARNINGS
(SEE FOOTNOTE 1, PARA 11). INVESTMENT BY FOREIGN FIRMS NOT
FORMERLY ESTALBISHED IN ARGENTINA ONLY AMOUNTED TO AROUND
\$20 MILLION IN THIS PERIOD. ACCORDING TO BUSINESS SOURCES,
THE REINVESTMENT OF EARNINGS REPRESENTS BOTH AN INCREASE
IN CONFIDENCE BY FOREIGN INVESTORS IN THE BUSINESS CLIMATE IN
ARGENTINA AND THE DECISION BY MANY FIRMS TO USE THEIR OWN MONEY
INSTEAD OF PAYING EXTREMELY HIGH INTEREST RATES FOR LOANS OB-
TAINED LOCALLY (WHILE UNDER THE PERONIST REGIME, INTEREST RATES
WERE HIGLY NEGATIVE IN REAL TERMS AFTER DISCOUNTING INFLATION;
UNDER THE VIDELA GOVERNMENT, THE CENTRAL BANK HAS SOUGHT TO KEEP
INTEREST RATES POSITIVE IN REAL TERMS TO ENCOURAGE SAIVINGS
AND TO STOP THIS FORM OF SUBSIDIZATION OF INVESTMENT).

8. U.S. INVESTMENT IN ARGENTINA AT YEAR-END 1976 TOTALED
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 BUENOS 00753 02 OF 02 311817Z

\$1.4 BILLION ACCORDING TO THE U.S. DEPT. OF COMMERCE (SURVEY
OF CURRENT BUSINESS OF AUG 1977). THE MAJORITY OF THIS
INVESTMENT (\$895 MILLION) IS CONCENTRATED IN THE MANUFACTURING
SECTOR. THE ARGENTINE UNDER SECRETARIAT OF FOREIGN INVEST-
MENT ESTIMATES THAT THE U.S. SHARE OF TOTAL FOREIGN INVESTMENT
IN ARGENTINA IS APPROX. 40 PERCENT (SEE FOOTNOTE 2, PARA
12).

9. OPIC ACTIVITY IN ARGENTINA HAS BEEN LIMITED. THE U.S. AND
ARGENTINA AGREEMENT ON GUARANTY OF PRIVATE INVESTMENTS
COVERS ONLY INSURANCE OF INCONVERTIBILITY RISKS. MOREOVER,
OPIC'S NEW FOCUS ON LOWER-INCOME DEVELOPING COUNTRIES CONFINES

OPIC OPERATIONS IN THE MORE WEALTHY COUNTRIES SUCH AS ARGENTINA TO CERTAIN CATEGORIES OF PROJECTS.

10. THE OUTLOOK IS FOR INCREASED FOREIGN INVESTMENT IN 1978, ASSUMING CONTINUED POLITICAL STABILITY AND CONTINUITY IN ECONOMIC POLICY. TERRORIST ACTIVITY, WHICH HAS BEEN A MAJOR DETERRENT TO FOREIGN INVESTMENT IN ARGENTINA, HAS BEEN GREATLY REDUCED BY THE ARGENTINE SECURITY FORCES AND SOME FOREIGN FIRMS ARE BEGINNING TO RETURN THEIR NATIONALS TO WORK IN SUBSIDARIES IN ARGENTINA. THE ECONOMIC POLICIES OF MINISTER OF ECONOMY MARTINEZ DE HOZ HAVE MADE PROGRESS IN REDUCING THE ECONOMIC DISTORTIONS PRODUCED BY THE PREVIOUS REGIME; IMPROVED DRAMATICALLY THE BALANCE OF PAYMENTS AND FOREIGN RESERVE SITUATION; GREATLY DIMINISHED THE BUDGET DEFICIT AND RATE OF MONETARY EXPANSION; AND LOWERED INFLATION SUBSTANTIALLY, ALTHOUGH IT IS STILL THE HIGHEST IN THE WORLD. THE GOVERNMENT'S STABILIZATION PROGRAM, HOWEVER, PRODUCED AN ECONOMIC SLUMP AT YEAR-END 1977, WHICH IS EXPECTED TO LAST AT LEAST THROUGH THE FIRST QUARTER OF 1978. THE ECONOMIC CONDITIONS FOR BOTH DOMESTIC AND FOREIGN INVESTMENT SHOULD THEREAFTER BEGIN TO IMPROVE.

UNCLASSIFIED

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PAGE 03 BUENOS 00753 02 OF 02 311817Z

11. FOOTNOTE ONE: THE UNDER SECRETARY OF FOREIGN INVESTMENT HAS AGREED TO PROVIDE EMBASSY FIRM FOREIGN INVESTMENT STATISTICS AS SOON AS COMPUTER STUDY IS COMPLETED. WE WILL FORWARD FIGURES AS SOON AS RECEIVED.

12. FOOTNOTE TWO: WE AND LOCAL U.S. BUSINESS COMMUNITY QUESTION ACCURACY OF DEPT OF COMMERCE 1976 INVESTMENT FIGURES FOR ARGENTINA. AGU ISSUE OF SURVEY OF CURRENT BUSINESS INDICATES THAT U.S. DIRECT INVESTMENT IN ARGENTINA INCREASED BY \$210 MILLION IN 1976--A FIGURE WHICH APPEARS EXCESSIVE IN TERM OF SITUATION. WE BELIEVE THE ERROR IS PROBABLY DUE TO THE METHODOLOGY USED TO CALCULATE REINVESTED EARNINGS-- I.E. THE DIFFERENCE BETWEEN INCORPORATED AFFILIATES EARNINGS AND GROSS DIVIDENDS. IN 1976 IN ARGENTINA, FOREIGN FIRMS WERE UNABLE TO REMIT PROFIT AND RECEIVED INSTEAD DOLLAR-DENOMINATED EXTERNAL BONDS IN RETURN FOR THEIR PESO PROFITS. THESE FUNDS WERE NEITHER DISTRIBUTED AS DIVIDENDS NOR REINVESTED IN THE ENTERPRISES WHICH ORIGINATED THE PROFITS.
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TAGS: EINV, EIND, EFIN, AR
To: STATE
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vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/2d013ce2-c288-dd11-92da-001cc4696bcc
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